

Oregon
NRCS Farm and Ranch Land Protection Program
F/Y 2006

Eligibility Criteria

1. The parcel must be **privately owned**.
2. The **landowner must be** interested in, and **willing to sell the development rights** on the parcel and acquire a conservation easement.
3. **There must be a pending offer made to the landowner** by a local unit of Government or a non-governmental organization (NGO) to purchase the conservation easement. (A purchase and sales agreement is strongly encouraged, and will increase ranking.) The NGO must meet the definition as described in section 501(C) (3), 509(a)(2) or 509(a)(3) of the Internal Revenue Code of 1986. Organizations must demonstrate their ability, both legally and programmatically to acquire, manage and enforce easements.
4. At least **one-half (1/2) of the appraised fair market value** of the easement **must be obligated** by the NGO or governmental entity through a combination of cash from the entity and charitable donation provided by the landowner. If the landowner provides a bargain sale, the NGO or governmental entity must obligate a minimum of 25% of the appraised fair market value, in cash. In the situation of large donations by the landowner (more than 50%), the Farm and Ranch Land Protection Program will provide a maximum of 50% of the negotiated purchase price. The remaining 50% must be provided, in cash, by the conservation entity.

New for 2006:

If a proposed easement contains between **51% and 66% forest cover**, the percent amount of the FRPP contribution cannot exceed the percent amount of open land on the parcel. The local contribution of the fair market value must come from a combination of the landowner donation and cash. A minimum of 25% of the fair market value of the easement must be in cash.

For example: if a pending easement parcel contains 55% forest cover, the maximum FRPP contribution would be 45% of the fair market value. The remaining 55% must come from local sources, and 25% of which must be in cash. In this situation, the landowner can make a charitable contribution of up to 30% of the appraised fair market value.

5. The primary purpose of the easement must be for the **protection of important farmland soils** in New Hampshire including prime and unique farmland, soils of statewide importance and soils of local importance according to the identification of such soils maintained by the NRCS, Durham, NH. Or, the parcel must qualify as an **historical or archaeological site** and be listed on the National or State Registry of Historic or Archaeological Sites.
6. The parcel **must contain at least 50 percent prime or unique soils and/or soils of statewide or local agricultural importance**. If the site is considered to be historic or archaeological, there is no requirement on the extent of important farmland soils.

New for 2006:

7. The parcel **must not contain more than 66% forest cover**. (See FRPP funding restrictions – item 4, above), for easements containing between 51% and 66% forest cover.
8. The landowner **must** agree to **have a conservation plan** developed for the land subject to the conservation easement and agree to have a conservation plan on all highly erodible land owned by the landowner, whether or not the highly erodible land is part of the conservation easement. The conservation plan must be developed in cooperation with the USDA Natural Resources Conservation Service. A listing of highly erodible soils and their location is available from the county office of the Natural Resources Conservation Service or the County Conservation District. The land owner must complete AD-1026, Self-Certification that all highly erodible land and all wetlands on his or her property are being managed in accordance with the Food Security Act of 1985.¹

New for 2006:

9. The **NGO or governmental entity must agree** to allow the **United States of America** to be a **co-owner** (co-grantee) of the easement with all of the same rights as the cooperating NGO or governmental agency. (The USA will not exercise any of these rights unless the NGO/governmental agency fails to fulfill their responsibilities in enforcing the terms of the easement.)
10. The parcel **must be of sufficient size** to allow for efficient management of the area; have an existing agricultural infrastructure, both on and off-farm, and have access to markets. Parcel size should not be less than 10 contiguous acres.

¹ Signing of this form certifies that the landowner will not plant an agricultural crop on highly erodible fields unless a conservation plan is developed on that land. Also, that the landowner will not produce an agricultural crop on wetlands converted after December 23, 1985 and that he or she will not drain or fill any wetlands that would allow for the planting of any crop or agricultural commodity.

11. The **landowner must agree to limit the extent of impermeable surface** to not exceed 2 percent of the total easement acreage. (For easements less than 50 acres, one acre of impervious surface area is permitted.) This includes all residential buildings, agricultural structures (with and without flooring), temporary structures, plastic greenhouses and paved areas both within and outside the conservation easement's building envelope. (Under certain unusual circumstances a waiver can be granted that will allow the extent of impermeable surface more than 2 percent. A waiver request must be approved by the State FRPP Technical Advisory Committee and the NRCS State Conservationist.)
12. The **landowner must agree not to subdivide** the easement parcel, or take any action that would have the effect of subdividing. (Under certain unusual circumstances a waiver can be granted that will allow easement parcels to be subdivided. A waiver request must be approved by the State FRPP Technical Advisory Committee and the NRCS State Conservationist.)

New for 2006:

13. There **must be an appraisal** of the property completed by a **General** land appraiser certified in the State of New Hampshire. A Restricted Use Appraisal (the simplest appraisal condoned by the Uniform Standards of Professional Appraiser Practice) will be accepted at the time the proposal is submitted. A complete **Self Contained Appraisal** must be completed prior to the closing on the easement. Appraisals must conform to the Uniform Standards for Professional Appraisal Practice **AND** the Uniform Appraisal Standards for Federal Land Acquisition (Yellow Book) and cannot be more than one year old at the time of closing. Some appraisals require a formal technical review by a Federal appraiser, or designee, prior to NRCS approving the closing on an easement. The closing agent should allow 30 to 60 days for the completion of a technical review.

New for 2006:

14. There must be a **formal survey or boundary plat** completed for the easement parcel. The survey must meet American Land Title Association (ALTA) requirements and State requirements for registering with the County Registry of Deeds. The **parcel configuration and the acreage** figure identified on the survey **must agree with the** parcel configuration and acreage identified in the final **appraisal** document. In addition, the survey must delineate and/or identify and label all features within the easement parcel that impact on the appraised value and/or is specifically identified in the easement deed language. (If a pending easement parcel has a boundary that coincides exactly with the property boundary as identified in the deed to that property, a survey may not be necessary depending on features within the easement and language in the easement deed that affect agricultural values.)

15. **Appraisals must contain a disclosure statement** signed by the appraiser indicating he/she is certified by the State of New Hampshire, he/she accepts full responsibility for the appraisal, that statements are true and unbiased, that he/she has no interest in the land, and the appraisal conforms to the Uniform Standards of Professional Appraiser Practice and the Uniform Appraisal Standards for Federal land Acquisition. The disclosure statement is required at the time of application and should be included as part of the proposal package².
16. The **parcel must be surrounded**, in part, **by land that can support long-term agricultural production**.
17. The pending offer **must be** for acquiring a **perpetual** easement.
18. The parcel **cannot** already **be** the **subject of an easement or deed restriction** that limits the conversion of the land to nonagricultural uses.
19. Eligible land must be owned by **landowners** who certify that they **do not exceed** an average adjusted gross **income of \$2.5 million** for the three tax years immediately preceding the closing on the easement deed. The landowner(s) must complete Form CCC-526; Payment Eligibility, Average Adjusted Gross Income Certification prior to the closing date³. (This eligibility requirement is waived if at least 75% of the average adjusted gross income is from farming, ranching or forestry operations.)
- New for 2006:**
20. Upon acceptance of a proposal and the obligation of FRPP funds to assist in the acquisition of a conservation easement, the NRCS requires a **meeting of all funding partners and the landowner within 90 days** of signing of the cooperative agreement. The purpose of this meeting is to discuss the purpose of the Farm and Ranch Lands Protection Program, discuss use restrictions and reserved rights of the Grantor, and other pertinent information that may be unique to the easement parcel. It is preferred to hold this meeting in the field, at the easement parcel(s) and may include a site walk.
- New for 2006:**
21. The NRCS requests a **minimum of 60 days**, after all final closing documents are received by the FRPP Program Manager, **to complete the review process** and provide approval for the Grantee and Grantor to proceed with the closing on the easement. This includes the final appraisal, final survey plat, final title documents and final easement deed language. (This time period can be reduced dramatically by communicating with NRCS on a regular basis through-out the negotiation process.)

² Additional information is required in the disclosure statement as noted in the Request For Proposals.

³ Landowners already in the Farm Service Agency (FSA) system can have this form mailed to them. All other landowners will need to stop by their local FSA office to complete the form.